

REMARKS

The Applicants wish to express appreciation to Examiner Miller for her courtesy during the telephone interview conducted on May 19, 2004. During the interview, the previous and new claims of the present invention, the claim rejections, the IDS being filed concurrently herewith, and a series of declarations from the Applicants' previous counsel and the Applicant related to patentability were discussed. The Applicants thank the Examiner for her candor, and again encourage the Examiner to call the undersigned attorney at (213) 892-5752 to resolve any issues that prevent the application from being in condition for allowance.

With regard to the IDS being filed concurrently herewith, as discussed during the interview, this IDS is identical in content to the IDS previously filed by the Applicants' previous counsel on January 24, 2004 for related case 09/697,667, which the Examiner is also handling. In that IDS, the submitted Form 1449 did not list a bibliographic reference for the five page reference entitled "The 'ACTION' Begins," <http://www.geocities.com/Hollywood/Screen/7073/page2.html>, author unknown, which followed the reference "Making a Killing with Cardboard" (which was properly listed in the submitted Form 1449). Nevertheless, in accordance with the Examiner's instructions and to maintain consistency between the IDSs submitted in the two cases, the present IDS will contain the same references and will include a Form 1449 with the same bibliographic references listed as in the related case.

With regard to the declaration submitted by Applicants' previous counsel on February 28, 2004 and the subsequent declarations submitted by Applicants' previous counsel and one of the inventors and applicants, Mr. John Stanley David Stanier on April 20, 2004, as discussed during the interview, the declarations taken together demonstrate a misunderstanding that occurred during a telephone call between Applicants' previous counsel and Mr. Stanier, and that there was in fact no use of a basic concept of the invention some 10 years ago.

Claims 16-39 are pending in the application. Claims 1-15 have been cancelled. Claims 16-28 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 of U.S. Patent No. 6,688,940. Claims 16-28 were rejected

under 35 U.S.C. §112, second paragraph, as being indefinite. Claims 16-28 were rejected under 35 U.S.C. §102(b) as being anticipated by Rizzo. Claims 29-36 were not addressed in the Office Action. A terminal disclaimer is being filed to overcome the obviousness-type double patenting rejection of claims 16-28. Claims 21, 23, 24, 27 and 35 have been amended to correct minor grammatical omissions. Claims 37-39 have been added, without new matter. Reconsideration and reexamination of the application in view of the amendments and the following remarks is respectfully requested.

Claims 16-28 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite. This rejection is respectfully traversed. As discussed during the interview, with regard to claims 16 and 23 it was unclear to the Examiner whether the combination of the three-dimensional apparatus and the seat is being claimed, or merely the subcombination of the three-dimensional apparatus. The relevant limitation is "means for supporting or anchoring said at least one life-sized inflatable humanoid figure in a . . . seat." The Applicants' attorney explained that claims 16 and 23 do not claim a seat, merely the means for supporting or anchoring an inflatable figure in a seat. In view of the above, it is respectfully submitted that the rejection of claims 16 and 23 under 35 U.S.C. §112, second paragraph has been traversed. In addition, because claims 17-22 depend from claim 16 and claims 24-28 depend from claim 23, it is also submitted that the rejections of claims 17-22 and 24-28 have been traversed for the same reasons provided above with respect to claims 16 and 23.

Claims 16-28 were rejected under 35 U.S.C. §102(b) as being anticipated by Rizzo. This rejection is respectfully traversed. As discussed during the interview, with regard to claims 16 and 23, the structure corresponding to the "means for supporting or anchoring said at least one life-sized inflatable humanoid figure . . . in a seat" is alternatively described in various places in the application, including page 8 lines 6-12 (connecting tubular sections for anchoring the figures in seated positions), and page 9 lines 3-7 (arm sections and gaps that fit over armrests of seats, and a trunk portion that rests on the seat). Rizzo contains no disclosure at all related to any structure for supporting the figures in a seat, as recited in claims 16 and 23. Because Rizzo does not disclose every limitation of claims 16 and 23, the rejection of claims 16 and 23 under 35 U.S.C. §102(b) as being anticipated by Rizzo is respectfully traversed. In addition, because claims 17-22 depend from

claim 16 and claims 24-28 depend from claim 23, the rejection of claims 17-22 and 24-28 have been traversed for the same reasons provided above with respect to claims 16 and 23.

With regard to new claims 37-39, as discussed during the interview, the "left and right side portions forming sides of each inflatable life-sized humanoid figures" include the structural limitation of having a three-dimensional depth so that when inflated, the figures simulate a crowd and may be visually recorded from a number of angles. A left side portion of a single inflatable life-sized humanoid figure containing this three-dimensional depth is illustrated in the example of FIG. 3 of the application. As can be seen in FIG. 3, the three-dimensional depth or profile approximates the thickness of a humanoid, which allows a plurality of figures to simulate a crowd even when viewed at an angle and allows the figures to be recorded from a number of angles. This limitation distinguishes the present invention from cardboard cutouts or inflatable figures with thin profiles that only provide a realistic simulation of a crowd when viewed from the front and center.

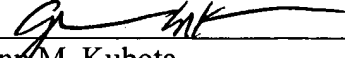
In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

If, for any reason, the Examiner finds the application other than in condition for allowance, Applicant requests that the Examiner contact the undersigned attorney at the Los Angeles telephone number (213) 892-5752 to discuss any steps necessary to place the application in condition for allowance.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 559852000101.

Dated: May 26, 2004

Respectfully submitted,

By 
Glenn M. Kubota
Registration No.: 44,197
MORRISON & FOERSTER LLP
555 West Fifth Street, Suite 3500
Los Angeles, California 90013
(213) 892-5752

Enclosure: Terminal Disclaimer